Supreme Court, U.S.
FILED

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No. (1)

In The

Supreme Court of the United States

VICTOR MADEJA

Petitioner

v.

Supreme Court of Pennsylvania Justices:

Ronald Castille, Thomas G. Saylor, J. Michael Eakin, Max Baer, Debra McCloskey Todd, and Seamus P. McCaffery;

Pennsylvania Superior Court Judges: Jacqueline Shogan, Robert E. Colville, and Joan Orie Melvin (now Justice)

Court of Common Pleas in Lehigh County Judges:

Maria L. Dantos and James T. Anthony

Respondents

On Petition For Writ Of Certiorari
To The United States Supreme Court

PETITION FOR WRIT OF CERTIORARI

VICTOR MADEJA, *pro se*
PO BOX 3385,
ALLENTOWN, PA 18106
(610) 624-1881

QUESTIONS PRESENTED

1. When are statutes related to vehicle speeding unconstitutional in terms of the *de jure* authority of State Legislatures because they violate "a right to travel?"

2. Even if statutes of any kind are constitutional, is imposition of summary judgement after denial of jury trials a violation of Due Process under federal law?

3. Within the scope of the existing 13th Amendment, can U.S. citizens be "duly convicted" into slavery by summary judgement under criminal law when the enacting government units are either unequal or acting separately?

4. Are local judges or magistrates permitted to claim and retain any emolument or title of honor beyond that of their fellow citizens?

List of Parties

This is directed against the judges and justices who may deem speeding a criminal rather than civil offense, or may approve imposition of summary judgement without federally recognized Due Process. An individual list of parties whose judgement is in question is as follows:

At Supreme Court:

Chief Justice Ronald Castille, Philadelphia 19103
Justice Thomas G. Saylor, Harrisburg 17101
Justice J. Michael Eakin, Mechanicsburg 17055
Justice Max Baer, Pittsburgh 15219
Justice Debra McCloskey Todd, Pittsburgh 15219
Justice Seamus P. McCaffery, Philadelphia 19102

At Superior Court:

Justice Joan Orie Melvin,* Pittsburgh 15219
Judge Jacqueline O. Shogan, Monroeville 15146
Senior Judge Robert E. Colville, Pittsburgh 15219

At Court of Common Pleas in Lehigh County.

Judge Maria L. Dantos, Allentown 18101
Judge James T. Anthony, Allentown 18101

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* Became a Justice on the Pennsylvania Supreme Court.

TABLE OF CONTENTS

QUESTIONS PRESENTED i

LIST OF PARTIES ii

TABLE OF CONTENTS iii

TABLE OF AUTHORITIES CITED iv

OPINIONS BELOW 1

JURISDICTION 2

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED 3

U.S. Constitution, Article VI [Obligations]
U.S. Constitution, Article IV, Section 4 [Citizen Rights]
U.S. Constitution, 5th Amendment [Due Process]
U.S. Constitution, 6th Amendment [Due Process]
U.S. Constitution, 7th Amendment [Due Process]
U.S. Constitution, 8th Amendment [Due Process]
U.S. Constitution, 10th Amendment [Citizen Rights]
U.S. Constitution [tbd], 1810 Amendment [Titles of Nobility]
U.S. Constitution, 14th Amendment [Due Process, etc.]
"Dillon's Rule," [limits local/municipal governments]
Constitution of the Commonwealth of Pennsylvania
Three Paragraphs by Thomas Paine (1805)

STATEMENT OF THE CASE 6

REASONS FOR GRANTING THE PETITION 8

CONCLUSION 38

INDEX TO APPENDICES 1 A-1

APPENDIX A A-2

APPENDIX B A-3

APPENDIX C A-8

APPENDIX D A-12

TABLE OF AUTHORITIES CITED

Cases	Page Number
Alford v U.S., 282 US 687; 51 S Ct 218, 219; 75 L Ed 624 (1931).	15
Allen v. Wright (468 US 737, 751; 1984)	18
Argersinger vs. Hamlin, 407 U.S. 25 (1972)	11
Brown vs. Board of Education of Topeka, 347 U.S. 483 (1954)	27&32
Codispoti v. Pennsylvania, 418 U.S. 506 (1974)	7
Commonwealth v Anthes, 71 Mass (5 Gray) 185, 208 (1855)	21
Commonwealth v. Burton, 973 A.2d 428, 433 (Pa. Super. 2009)	9
Commonwealth v. Hulehan, 487 A.2d 980, 982 (Pa. Super. 1985)	7
Commonwealth v. Mayberry, 459 Pa. 91, 327 A.2d 86 (1974)	7&9
Crandall v Nevada, 73 US 35; 18 L Ed 745 (1868)	3, 4
Davis v Alaska, 415 US 308; 94 S Ct 1105; 39 L Ed 2d 347 (1974)	20
Dunn v Blumstein, 405 US 330; 92 S Ct 995; 31 L Ed 2d 274 (1974)	14
Gitlow vs. New York, 68 U.S. 652, (1925)	36
Henderson v Morgan, 426 US 637; 96 S Ct 2253; 49 L Ed 2d 108 (1976)	17
Herrera vs. Collins (506 U.S. 390; 1993)	36
Holman v Athens Empire Laundry, 149 Ga 345; 100 SE 207; 6 ALR 1564, 1574-5 (Ga, 1919)	21
Jenkins v United Gas Corp, 400 F2d 28, 33 n 10 (CA 5, 1968)	35
Marbury vs. Madison, 5 US (2 Cranch) 137, 174, 176, (1803)	7, 12, 31
Miranda v Arizona, 384 US 436, 491; 86 S Ct 1602; 16 L Ed 2d 694 (1966)	12
Newman v Piggie Park Enterprises, 390 US 400; 88 S Ct 964, 966; 19 L Ed 2d 1263, 1265 (1969)	35
Norton v Shelby County, Tennessee, 118 US 425, 442; 6 S Ct 1121; 30 L Ed 178 (1886)	12
Oatis v Crown Zellerbach Corp, 398 F2d 496, 499 (CA 5, 1968);	35
Pennsylvania vs. Nelson , 350 U.S. 497 (1956)	37
People v Marcroft, 6 Cal App 4th Supp 1; 8 Cal.Rptr.2d 544 (1992)	34
Pinkerton v Verberg, 78 Mich 573; 44 NW 579 (1889)	14
Romer v Evans, 517 US 620; 116 S Ct 1620; 134 L Ed 2d 855 (1996)	13
Santa Clara County vs. Southern Pacific Railroad Company, 118 U.S. 394 (1886)	35
Scott v. Illinois, 440 U.S. 367,	11
Smith v Illinois, 390 US 129; 88 S Ct 748; 19 L Ed 2d 956 (1968)	15
State of Georgia v Brailsford, 3 US (Dall) 1, 4; 1 L Ed 483, 484 (1794)	21
Tumey v Ohio, 273 US 510; 47 S Ct 437; 71 L Ed 749 (1927)	33
United States v Singer, 710 F2d 431 (CA 8, 1983)	34
United States v Battiste, 24 Fed Cas 1042, 1043 (CCD Mass, 1835)	21
United States v Johnson, 718 F2d 1317, 1322 (CA 5, 1983)	21
United States v Spock, 416 F2d 165, 181 (CA 1, 1969)	21
Ward v Village of Monroeville, 409 US 57, 60 (1972).	33
Weimer v Bunbury, 30 Mich 291; 1874 Mich. LEXIS 168 (1874)	14
West Virginia State Board of Education v Barnette, 319 US 624, 638; 63 S Ct 1178; 87 L Ed 1628 (1943)	12
16 Am Jur 2d § 177	23
Matter of Hague, 412 Mich 532; 315 NW2d 524 (1982)	21

In The Supreme Court Of The United States

Petition For Writ Of Certiorari

Petitioner respectfully prays that a writ of certiorari issue to review the judgment and opinions below as enclosed in the Appendix as A to C.

Opinions Below

As shown in Appendix A, . on the 26 April 2010, the Supreme Court of Pennsylvania denied an appeal to review lower court opinions without providing a reason

The Opinion of the Pennsylvania Superior Court (Philadelphia), essentially agrees with the County Judge and a summary of his Opinions and Orders is summarized in Appendix C, dated 17 April 2009. The significant point that he omits is an Order for Continuance by Judge Maria L. Dantos, that was dated 25 November 2008.

As an indication that law was being practiced from the bench, it is significant that the District Attorney at Lehigh County did not become substantially involved until mailing their brief to the Superior Court on 31 July 2009.

JURISDICTION

The Pennsylvania Supreme Court denied my appeal to review lower court decisions on 26 April 2010.

The U.S. Constitution reserves general police powers to states, so each has its own criminal procedure and enforcement agencies that investigate crimes. prosecute those charged with crime; and handle treatment of persons who are convicted of crime. However, by acts of Congress, federal offenses include an interference with interstate commerce and those against the U.S. government. Therefore, the jurisdiction of this Court can be invoked for unrestricted review under 28 U. S. C. § 1257(a). Part IV. Ch.81 as amended in 1988, which states:

> (a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED[1]

U.S. Constitution, Article VI [Obligations]

[2] "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

[3] "...[J]udicial Officers, both of the United States, and of the several States, shall be bound by Oath or Affirmation to support this Constitution...;"

U.S. Constitution, Article IV, Section 4 [Citizen Rights]

"The United States shall guarantee to every State in this Union a Republican form of government, ..."

U.S. Constitution, 5th Amendment [Due Process]

No person ...shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

U.S. Constitution, 6th Amendment [Due Process]

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of Counsel for his defence.

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[1] These are good faith quotations of the laws and statutes involved.

U.S. Constitution, 7th Amendment [Due Process]

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

U.S. Constitution, 8th Amendment [Due Process]

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

U.S. Constitution, 10th Amendment [Citizen Rights]

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

U.S. Constitution [?], 1810 Amendment [Titles of Nobility][2]

If any citizen of the United States shall accept, claim, receive, or retain, any title of nobility, or honor, or shall, without the consent of Congress, accept any present, pension, office or emolument, of any kind whatever, from any Emperor, King. Prince or foreign Power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them, or either of them.

U.S. Constitution, 14th Amendment [Due Process, etc.]

Section 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United

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2 Arguably, since about 1819, it is the true 13th Amendment. There is controversy about its ratification. For our purpose, it is sufficient that it was ratified by Pennsylvania on 11 February 1811. Regardless of the ratification issue, it mainly adds a sanction ("cease to be a citizen") to Article I, Sections 9(8) & 10(1) and reflects an attitude against inequality inherent in the Articles of Confederation (VI) It may also be noted that the provenance of the 1865 13th Amendment is controversial because it institutionalizes slavery, a term previously unmentioned in the Constitution, and was otherwise largely redundant to rights in the 14th & 15th Amendments.

States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

"Dillon's Rule," [limits local/municipal governments]

"... the powers that are expressly granted to them by the state legislature, those that are necessarily implied from that grant of power, and those that are essential and indispensable to the municipality's existence and functioning. Any ambiguities in the legislative grant of power should be resolved against the municipality so that its powers are narrowly construed. "

Constitution of the Commonwealth of Pennsylvania[3]
Mainly Article I, Section 6 [Due Process]

Trial by jury shall be as heretofore, and the right thereof remain inviolate. The General assembly may provide, however, by law, that a verdict may be rendered by not less than five-sixths of the jury in any civil case.

Three Paragraphs by Thomas Paine (1805)
Compass on Constitutions, Governments, and Charters

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[3] Like most state constitutions, that of Pennsylvania has a *Bill of Rights* that references to citizen rights and equal protection. These are not listed here as being repetitive to federal law. Under Article II, Sections 20 ("Classification of Municipalities"), 31 ("Delegation of Certain Powers Prohibited"), and Section 32 ("Certain Local and Special Laws" also known as "Home Rule") are all challenging to the meaning of equal protection but, because in theory local officers are expected to take an oath to the U.S. Constitution, reinforcing federal protection will also address the issue outlaw jurisdictions.

Compass" was signed "Common Sense" and dated June 21, 1805 (from new Rochelle). It was attached to Paine's August 1805 "Letter to the Citizens of Pennsylvania On the Proposal for Calling a Convention." A copy of the letter and compass was attached as an exhibit to my Appeal to Pennsylvania Supreme Court after being cited in the earlier briefs. The paragraphs will follow in the text.

STATEMENT OF THE CASE

At about 10 AM on 2/29/2008, Upper Saucon Police cited me for driving 65mph on the 4 to 6 lane Center Valley Parkway (between Saucon Creek and Old Bethlehem Pike in Upper Saucon Township), and in May 2008, a magisterial district judge found me guilty for exceeding the 45mph speed limit, His letter threatened me with "Criminal Contempt" (per 42 Pa.C.S.§4137) if I did not pay $175 (Fine $65, Costs $50, Other $60). To me, a fine and even traffic points might have been understandable in a civil law context but I considered the added costs and fees excessive and therefore filed a *Pro Se* appeal.

On the court date in November 2008, the police officer failed to appear (five hours), but Judge Maria Dantos allowed the District Attorney to reschedule the case.

On 1/23/2009, I was found guilty after a summary trial *de novo*. After the Judge Anthony denied my initial motions to dismiss on 02/05/09, I appealed to Superior Court. He ordered a statement of errors be provided to which he responded by an Opinion in opposition (Appendix C) that

dismissed my Due Process concerns by citing *Commonwealth v. Mayberry*, state case law, which distinguishes "petty" cases as not protected by a right to a jury trial.

The Superior Court did concede how the U.S. Supreme Court -- per *Codispoti v. Pennsylvania* and *Commonwealth v. Hulehan*, and even *Marbury v. Madison* -- is the ultimate arbiter of the federal constitution. BUT, while admitting that to be a "well settled" issue, asserted that there was no violation of due process because, with a summary offense, I was never in jeopardy of incarceration of more than six months.[5] This circular logic and casual attitude towards imprisonment struck me as unsound.

Both Judge Anthony and the Superior Court also grossly understated the amount of fines and penalties involved. As of 15 July, the remaining billing is $256.

I appealed to the Pennsylvania Supreme Court which denied review on 26 April 2010 (Appendix A).

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[5] It wrongly said that I suggested that the state Supreme Court (in 1968) could somehow "simply go off on a frolic and detour of their own in determining that an individual may be tried without a jury when he or she faces a sentence of less than six months."

Reasons for Granting the Petition

Since the Pennsylvania Constitution was revised in 1968, the number if inmates in its state and federal prisons has skyrocketed from 6,289 (1970) to 45,969 (2007), which does not include those in local jails or imprisonment in juvenile facilities, with even larger numbers of citizens on parole. This rise is despite a state population increase of only 11.8 to 12.5 million. Such increases contribute to a disgraceful national prison population in excess of 2.4 million.[6] Given the intricacies involved even in misdemeanor charges, under represented defendants in Pennsylvania have been victimized by forms of "assembly-line justice."

This fact should motivate federal intervention into trends that destroy families and communities. Based on these numbers Pennsylvania judges appear to have been

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[6] Prisoners in 2008. (NCJ 228417). December 2009 report from the U.S. Bureau of Justice Statistics. By William J. Sabol, Ph.D. and Heather C. West, Ph.D., BJS Statisticians. Also, Matthew Cooper, BJS Intern. Table 9 on page 8 of the PDF file has the number of inmates in state or federal public prison facilities, local jails, U.S. territories, military facilities, U.S. Immigration and Customs Enforcement (ICE) owned and contracted facilities, jails in Indian country, and juvenile facilities. Table 8 on page 8 has the incarceration rates for 2000, 2007, and 2008

enslaving part of the population for profit. Evidence for this claim is indicated by a recent Luzerne County "cash for kids" scandal, which illustrates judicial *capability* for personal abuse. This may suggest a need for standards of STRICT SCRUTINY in the application of summary trials in the Commonwealth of Pennsylvania.

My personal concern focused on federal Due Process but the Pennsylvania Constitution *Declaration of Rights* also promotes equality and other inherent rights (sec. 1) and asserts that a right of trial by jury shall "remain inviolate" per Article 1 (sec. 6 & 9). To underscore such concerns, in the Appeal to Superior Court, I even cited sanctions of U.S. Code, Title 18 (Sec. 2381) and the original Thirteenth Amendment, but the Superior Court bypassed these by citing *Commonwealth v. Burton*, and confirmed Judge Anthony's Opinion in regards to *Commonwealth v. Mayberry* that discussed differences between a "serious" and "petty" offense.

My contention is that imposing arbitrary definitions of "trial" as a hearing by one person and by claiming it is a

"petty" matter to deprive someone of liberty, the state courts have grossly violated even the state constitution. At least I deserved to be educated *By What Authority* Pennsylvania judges claim to impose such decisions on their fellow citizens. Like many others, I distrust the judicial system and feel that jury trials need restoration. At least, we should provide counsel in any criminal venue.

Judges who earn ten to twenty times as much as the median salary are also unlikely to replace a jury of peers. This is also true in the assessment of appropriate fines. Both the tax and crime aspects smell like fraud. The imposed criminal venue almost assumes some standard of guilt but under genuine U.S. law, a "crime" typically requires three elements: willful intent, a specified act/crime, and actual damage. The simple truth is none of these elements were established in any statutory traffic violation, nor was there any effort to prove them, much less to seek documentation of a sworn complaint by an injured party.

In my hearing, even though I had questioned the authority of the proceedings (*Quo Warranto*) and said I wanted a jury trial, Judge Anthony proceeded to conduct a trial by interviewing the police officer much like the initial magistrate had. The assistant District Attorney of Lehigh County was mostly passive and certainly made no effort to establish how a crime had been committed.

Don't judges have a duty to record *By What Authority* they extort money from fellow citizens[7] or imprison them; even for a day? The U.S. Supreme Court confirmed this protection in *Argersinger v. Hamlin* and *Scott v. Illinois*, which required provision of counsel in any petty offense, misdemeanor, or felony prosecution, "that actually leads to imprisonment even for a brief period."

I was threatened with "Criminal Contempt" (per 42 Pa.C.S.§4137) from the start of this case. Such routine attacks on civil (citizen) rights erode citizenship. No matter

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[7] The "twenty dollars" standard of the 7th Amendment is also casually ignored but that pales as an issue compared to imprisonment. Even so, since there was so clearly an to understate the costs involved, this seems to no be a routine part of the revenue process.

how "petty" the charge is perceived by an imperial court, enslaving a fellow citizen, even for a day, much less six months, should be taken as a very serious matter. It is for me. Therefore, from the start let me make clear that this is about reinforcing the Constitution to vindicate a policy that the Founders considered a high priority.[8]

(Reasons follow in numerical order from the Questions.)

1. To be a law, an enactment must be constitutional, i.e., within the actual *de jure* authority of the Legislature. Even in *Marbury v. Madison*, when the fourth Chief Justice imposed *Judicial Review*, he noted that "All laws which are repugnant to the Constitution are null and void." *Miranda v Arizona*: "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." *Norton v Shelby County*: "An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; creates no office. It is in legal contemplation, as inoperative as though it had never been

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[8] Given the time and cost involved, it should be clear that I do not expect to achieve some substantial personal gain or benefit.

passed." *West Virginia State Board of Education v Barnette*: "The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts." Also see *Romer v Evans*. The latter two cases established that certain rights (life, liberty, property, free speech, free press, freedom of worship & assembly, etc.) may not be submitted to vote and do not depend on the outcome an election. Citizens have an inherent right to distinguish forms from substance and not accept laws merely on the basis of their form.

This petition represents a civic duty to challenge false forms, which is what unconstitutional speed limits are. They are a mild example of tyranny but suggest that any unconstitutional enactment should be challenged. Under the 10th Amendment (last three words), one of Americans' basic rights in the "Bill of Rights" is a constitutional right to travel, upheld as long ago as in cases such as *Crandall v*

Nevada, Pinkerton v Verberg, and once again reaffirmed by the U.S. Supreme Court in *Dunn v Blumstein.* It is also linked to the U.S. Bill of Rights as in *Weimer v Bunbury*:

> "The Bills of Rights in the American Constitutions have not been drafted for the introduction of new law, but to secure old [already existing] principles against abrogation or violation; they are conservatory rather than reformatory."

It presumed that politicians could violate rights so one the idea was to forbid them to even vote on taking them.

If there had been a jury to oversee the "day in court," then I might have engaged in a formal "discovery" process to include a number of questions in writing. Are Lehigh County's speed limits set "legislatively," by politicians or by "traffic experts"? Were limits set by pertinent "Traffic Control Orders" that verified that engineering guidance was utilized and not economic whims for adding revenue? If there was cross-examination, for the purpose of impeachment of a police officer, he could be compelled to answer as to particular traits of character, or as to particular facts, or whether he has committed wrongful or immoral acts, even though such acts may be irrelevant in collateral to the prin-

cipal controversy or issues involved in the case, and interrogated as to his occupation or vocation, habits, or associates, especially if police officers violate the law themselves.

Per U.S Supreme Court in *Alford v U.S.*, such cross-examination is a right. It helps determine place of employment; and thereby place the witness in proper setting, to put the weight or credibility of what they say to a test. Without meshing the person to the environment impartial adjudicators cannot fairly appraise testimony. Similar considerations are covered in *Smith v Illinois*.

Can politicians or judges maliciously pander to special interests (such as local corporate governments) to assault and violate a "right to travel?" The numerous cases that uphold this right need not be fully addressed here but I could find numerous examples from other states to establish that indefinite or vague (invented) speed limits are unconstitutional, "Speed" laws are an often an unconstitutional method to enforce issues of safety and that they have been voided if they unduly burdened interstate commerce.

Moreover, aside from inconsistency of standards (even within a county), both improperly placed traffic signs and statutes that are too voluminous can void procedural due process because proper notice is required for proper adjudication. Simply put, these *criminal* speeding statutes barely qualify as understandable, much less constitutional. Without a specialized education, the average citizen will find the system difficult to understand and its documentation unreasonably complicated.

Simply put *Due Process* requires that the law be reasonably understandable and not require the equivalent of a guidebook at each county line. Statutes related to vehicle speeding can also violate "a right to travel" if they result in excess citations "at speed traps" or if the State Legislatures decided to use such laws for revenue rather than for safety.

2. Even if statutes of any kind are constitutional, is imposition of summary judgement after denial of jury trials a violation of Due Process under federal law? Before someone can properly plead guilty, they must be properly

informed of the charge and elements. Specifically, aspects of a criminal case require a defendant's knowing participation and a valid guilty plea must be voluntarily made with full knowledge of its implications, as in *Henderson v Morgan*. In order to avoid violation of due process rights and establish guilt in a speeding case involving radar, various guidelines must be met in order to allow into evidence speed reading measurement devices; i.e., the methodology of enforcement must itself be constitutional. Here I did not plead guilty nor consent to have the trial judge to enter a plea on my behalf. The judge, who performed his duties in an assembly line fashion, was not trusted, because I do not trust any solitary judge to weigh such factors.

What kind of factors? For example, the officer's adequate training experience, the condition and installation of the radar device at the time of the issuance of the citation, if the area where the device was used avoided distortions, input speeds verification, timely re-testing and certification of the device, done in a proper manner (at the end of the shift?

when?), establishing that a target vehicle is within the operational area of the beam at the time when the reading is displayed. In the extant case, Judge Anthony, without comment from the assistant District Attorney, tried to establish some of these guidelines. This required him to practice law from the bench, which circumvents Article VI (supremacy clause).

More important, there was no witness complaining against me so practicing law from negates judicial jurisdiction. I believe, as stated in the and federal state constitutions, the authority of judges is limited to protecting and maintaining individual rights. Therefore, for subject matter jurisdiction to establish standing, a plaintiff must allege a personal injury, per *Allen v. Wright*. Here, with a case titled "Commonwealth of Pennsylvania v. ...", and per his opinion in Appendix C , Judge Anthony does not appear to know what a proper cause of action is and seems indifferent as to what elements need to be present for a proper cause of action;" i.e., my *Quo Warranto* demand could require a sworn complaint by an injured party; but *no injured party was present!*

The judge, district attorney, and "prosecuting" officer were agents of the Commonwealth and hence interested parties to the case who would not qualify as proper witnesses due to a conflict of interest. If there was an attempted allegation that I had endangered safety, the obvious question is: "whose" (names, addresses, prior-to-trial statements)? Moreover, since the Commonwealth is a stated party to the litigation, per Judge Anthony's Constitutional Oath of Office, as an officer of state government with interest in the outcome, he was not neutral on state speeding statutes. The case should have been dismissed because of a conflict of interest. The proper venue would have been federal court.

Who supposedly reported the speeding or so-called unsafe driving so the police would initiate an investigation? There is nothing in the record nor any testimony that my driving above a limit (never admitted) makes it "more likely than not" that the speed was unsafe. Neither lay nor expert witnesses appeared to offer testimony to the contrary. I did not consent to any professional studies or data to be pre-

sented for filing as an exhibit in court. In short, I was denied a constitutional right (per 6th Amendment & *Davis v Alaska*) to confront the witnesses against me (the interested officer did not qualify) and cross-examine them on aspects such as the nature, degree, duration, intensity, scope, and prevalence of supposed endangerment.

It seems a dangerous precedent for courts to enforce doubtful laws. After all, if they themselves won't properly obey and enforce written law -- as in the U.S. Constitution -- why should the rest of us? I believe that this court agrees that judicial authority should focus on protecting and maintaining individual rights. I do not necessarily distrust all judges and magistrates, but do deny them the privilege of obstructing *due process*. Honest, rational judges know that key elements of the U.S. Constitution were intended and designed to be a perpetual; and -- absent amendment -- that its wording is made to cover subsequent matters (science, religions, newspapers, crimes). Are not the rights that it lists intended to be permanent, not limited to only those on the date of ratification?

That is what distinguishes a written constitution from a "living one" as in the British Commonwealth, where officers take an oath of allegiance to the Queen and not to a constitution. Therefore, judges must obey and enforce the constitution and laws themselves, e.g., *Matter of Hague* and *Holman v Athens Empire Laundry*,

> "Neither the opposite party nor the public has the right, legal or equitable, to invade the clear legal rights of another. ...final settlement of ... rights does not lie in the broad discretion of the chancellor [court], but in the clear legal and equitable rules which bind the chancellor himself."

In Pennsylvania this system instead circumvents the jury process under an arbitrary six month standard. It is the jurors who should oversee what is done, per *United States v Battiste*, *Commonwealth v Anthes*, *United States v Spock*, *United States v Johnson*, and *State of Georgia v Brailsford*. The U.S. Constitution, based upon the notion of due process and fairness also bans "ex post facto" laws (Per Article I § 9 of U.S. Constitution: "No bill of attainder or ex post facto Law shall be passed.",), which suggests that a constitutional law must tell the citizens *in advance* what act is contemplated by the prohi-

bition of the law. Is it constitutional for judges to retroactively decide that what was done previously was wrong.

On analyzing the Sixth Amendment, the National Motorists Association (NMA) shares the concern on restriction of jury trial rights"[9] "Do you see anything in here that says this right doesn't apply unless the crime can result in six months or more in jail? Me neither." Jury trials "are . . . the most important bastion for the protection of individual rights."

The article asks how jury trials came to be banned:

> "When the U.S. Supreme Court [on behalf of states] could not get the interpretation it [they] wanted from the actual words in the Sixth Amendment, it chose to do a historical review [the Confederate approach refuted before the Civil War!] of the circumstances prior to the drafting of the U.S. Constitution. Sure enough, it found instances where, under English common law, persons could be tried for minor crimes without access to a jury trial. That the drafters of the Constitution were obviously aware of this practice and chose to obliterate it by granting jury trials to anyone charged with a crime, as a constitutional right, did not phase the [Supreme Court judges]. This knowledge didn't fit their agenda, i.e., reducing access to jury trials for criminal defendants."

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[9] See "The Courts Have Lost Their Way" by Pres. James Baxter in National Motorists Association Foundation News (#5) 2 (Sep/Oct 2005)

Back to speed statutes, I say they need to give advance notice, so that they can be challenged or opposed. If their formation was unconstitutional, per 16 Am Jur 2d § 177: citizens are not "bound to obey" a doubtful speed law.

3. Can U.S. citizens be "duly convicted" into slavery by summary judgement when the enacting government units are either unequal or acting separately?

Concerns about slavery and the invocation of un-American laws go back to the founders of this country. Thomas Paine's 1805 "Letter to the Citizens of Pennsylvania on the Proposal for Calling a Convention", provides a "Compass" [10] with several comments that pertain:

> The people of Pennsylvania are, at this time, earnestly occupied on the subject of calling a convention to revise their State Constitution, and there can be but little doubt that a revision is necessary. It is a Constitution, they say, for the emolument of lawyers. ...[6 paragraphs]
>
> A constitution is the act of the people in their original character of sovereignty. A government is a creature of the constitution; it is produced and brought into existence by it. A constitution defines and limits the powers

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[10] Both are in *Writings of Thomas Paine*, Volume 10 (Essays, Letters, and Poems), Vincent Parke Company, 1908. Pp. 267-97 & 298-304. Paine had been a public official during the Articles of Confederation government at both the national and Pennsylvania levels so his views reflect the sentiment of at least some of the Founders and my own.

of the government it creates. It therefore follows, as a natural and also a logical result, that the governmental exercise of any power not authorized by the constitution is an assumed power, and therefore illegal.

There is no article in the Constitution of this State, nor of any of the states, that invests the Government in whole or in part with the power of granting charters or monopolies of any kind; the spirit of the times was then against all such speculation; and therefore the assuming to grant them is unconstitutional, and when obtained by bribery and corruption is criminal. It is also contrary to the intention and principle of annual elections....

[skip last 8 paragraphs].

It is not a legal opinion but Paine did serve as Clerk to the Pennsylvania Assembly during 1779-1780 and was instrumental in some early American legal decisions. Moreover, these views on constitutional reform were written in August 1805, thirty years after *Common Sense*, arguably America's most powerful political document. In contrast, the Supreme Court of Pennsylvania website[11] makes no mention of constitutions and boasts to be

... the oldest appellate court in the nation, dating to 1684. The court makes final interpretations of state law and has administrative authority over the entire Pennsylvania court system.... [and]

..The Supreme Court also can take up any case in any court in Pennsylvania if it considers an issue of immediate

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[11] www.courts.state.pa.us/T/SupremeCourt/default.htm (as of 7/22/2010)

public importance to be at stake. When it does this, the court exercises one of two powers known as the "King's Bench" power or the power of "extraordinary jurisdiction."

Without digressing, to this day, the dozen key countries of the British Commonwealth have no written constitution and their officers swear allegiance to the Queen. For that reason, most Americans might find reference to a pre-1775 legal lineage and powers of a "King's Bench" to be offensive.

Moreover, the Founders saw a serious threat in titles of "honour" or undue "emolument: of any kind" so that by 1810 the Congress overwhelmingly voted that anyone claiming them would forfeit their citizenship, and never again be able to hold any office in either the federal or State government. Even if the 13th Amendment had not been fully ratified[12] before the records were destroyed (1814, when the British invaded), there is no question that Pennsylvania did ratify it (5th state) on February 6, 1811, which indicated the sentiment of the time and some consistency with views of Thomas Paine.

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[12] The Appeal to Pennsylvania Supreme Court further discussed the provenance of the specific Amendment in terms of a continued legitimacy but here the emphasis is on the claim of undue honor.

It is unknown to what extent Paine's "Letter" provoked the passage of the original 13th Amendment, but it certainly noted ongoing attempts to abrogate and modify our Constitution. In fact "titles of nobility" were prohibited in both Article VI of the *Articles of Confederation* (1777) and in Article I, Sections 9 and 10 of the U.S. Constitution. The main point here is that Pennsylvania judges and magistrates, all of whom make far more than the median wage of Pennsylvania citizens, are *capable* of assuming a position of *de-facto* honor (even indicated by their title), and especially so when the abrogate the right of equal protection of the law and specific protections of a jury trial cited in the federal constitutions to which they swore allegiance, on record.[13]

Do they feel that they can individually move to enslave (i.e. imprison) fellow citizens under powers granted in the current 13th Amendment? This gets us into the area of Home Rule because Due Process is linked to the legitimacy of the government and if the state cannot properly delegate form of

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[13] The Appeal to Pennsylvania Supreme Court, for example, provided a copy of the oath as recorded in the local courthouse.

home rule then none of its subordinates can legally exercise such imposition. In terms of imposing racial supremacy, unauthorized power by "separate and unequal" state jurisdictions should have been settled by the Civil War (1861-65) and confirmed by the 1964 in the *Brown v Board Education* decision that forbid even the fiction of *separate but equal* governments.

Yet it continues. Examples of the inequality among Pennsylvania counties and local governments are shown in Appendix D to indicates the range. My speeding citation was initiated by a police officer and magistrate within a home rule county in a separate and unequal jurisdiction under the rubric of a Commonwealth and its court is located adjacent to the city buildings of the home rule city of Allentown (third largest in the state). With I meant to assert with *my Quo Warranto* demand was that the legal mechanism had legitimacy under the U.S. Constitution but this demand has been repeatedly ignored and standard procedures are simply not followed. In the context of speeding tickets, this "standard" varies widely from county to county and even within a single county. Unreasonable varia-

tions would render the sentencing process unconstitutional as has been discussed under Question 2 and here I propose a similar claim under the 14th Amendment.

As can confirmed by data from the current *Statistical Abstract of the United States* (Appendix D), Pennsylvania's state courts have tolerated the creation of over 4800 government units, which is, for example, nine times the number in Virginia. Since this appears to have aspects of "divide and rule" imposition, it is reasonable to ask "Who benefits and who loses?". Such a question would require long discussion but it needs to be recognized[14] here.

It is within the scope of my appeal to ask if such confusion is maintained "for the emolument of lawyers" as Paine put it. The possibility demands examination. Space is limited so let me simple recall that the famous reformer Jeremy Bentham said: "The power of the lawyer is in the uncertainty of the law" and that "Every law is an infraction of liberty." My point is that over

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[14] As someone who served as an Army Foreign Area Officer and instructed college-level Sociology, I would suggest G. William Domhoff as a starting point (see http://sociology.ucsc.edu/whorulesamerica/)

4,800 local governments can make a mind-numbing number of laws and statutes and bury the underpinning U.S Constitution.

Finally, it also violates federal law constraints implied by the recognized guidance stipulated in "Dillon's Rule," which limits local or municipal governments to:

> "... the powers that are expressly granted to them by the state legislature, those that are necessarily implied from that grant of power, and those that are essential and indispensable to the municipality's existence and functioning. Any ambiguities in the legislative grant of power should be resolved against the municipality so that its powers are narrowly construed. "

4. Are state and local judges or magistrates permitted to claim or retain any emolument or title of honor beyond that of their fellow citizens as in the denial of a jury trial or by practicing law from the bench?

Much of this section would be repetitive to issues in Question 3, because officers of the subordinate government units in Pennsylvania must also take an oath of allegiance to the Constitution. So why is the misbehavior tolerated?

Apparently, after the U.S. Supreme Court made certain types of *statutes* impermissible by Civil Rights reform, the

Pennsylvania Constitution of 1968 initiated sweeping judicial changes including creation of a "Unified Judicial System" that altered courts to allow separate and unequal "home rule" jurisdictions. This made local judges into a virtual aristocracy capable of acting as one-person "grand juries" who could master over their fellow citizens and, to paraphrase Thomas Jefferson, make the Constitution... "...a mere thing of wax in the hands of the judiciary, which they may twist and shape into any form they please."

If the U. S. Constitution is the supreme law of the land per Article VI (supremacy clause), to be valid local laws and statutes must be in agreement. If they violate the Constitution they are simply not valid. Accordingly, if a magistrate chooses not to dismiss the complaint at the initial hearing, then a jury trial, *as was respectfully demanded* in accordance with the federal and state law (Article I, Section 6), should have been allowed per State Constitution, if only to protect the federal ideal.

In contrast, an imperial judiciary, wherein the judges are capable of inventing their own rules, is succinctly de-

nounced as early as *Marbury vs. Madison* (part 1, p 12-13, has quotations). I believe that any structure with the *capability* to violate Due Process *should* be carefully monitored, if not by a jury, then by what other method. I further argues that imposition of summary court procedures, which allows state-paid judges and prosecutors to collude in imposing imprisonment for up to six months and big fines (sometimes beyond a median annual wage) without a jury trials routinely violates even primitive English standards of justice as stated in part 29 of the *Magna Carta* that

> "No freeman is to be taken or imprisoned or disseised of his free tenement or of his liberties or free customs, or outlawed or exiled or in any way ruined, nor will we go against such a man or send against him save by lawful judgement of his peers or by the law of the land."
> (per National Archives translation from Latin)

The concept of *due process of law,* deemed equivalent to the phrase 'by the law of the land', in *Magna Carta,* was part of the tradition of English liberties brought to North America by the colonists so its equivalent appears in many colonial charters and constitutional documents such as the *Virginia Declaration of Rights* and in most American state constitutions. For exam-

ple, the 5th Amendment to the federal constitution (adopted immediately following the ratification of the Constitution itself), declares that: "...no person shall be ... deprived of life, liberty, or property, without due process of law." Apparently these continued references to British precedence confused some Americans because of their links to feudalism and aristocracy. If so, in 1868, the 14th Amendment should have ended this confusion.

Using similar language, it extended the Due Process protection, which had heretofore applied only to the federal government, to the state governments as well. In other words, assertions of unauthorized power by "separate and unequal" state jurisdictions should have been settled by the Civil War (1861-65) and confirmed no later than in the 1964 *Brown v Board Education* decision that forbid even the fiction of *separate but equal* governments. Here we have governments that are also unequal. Lehigh County's imposition of a "home rule" charter appears illegitimate.

Hundreds of thousands of American soldiers died in a Civil War that was fought to the defend the Union against

the arbitrary imposition of State Rights. Now, as the evil aspects of state rights extend to abusive corporate rights, there is a an alarming suicide rate in the veteran community. It is that spirit that motivaties the questioning of such abuse. It is certainly not mere quibbling about traffic fines.

We will not deeply speculate what caused such abuse. It for partly for extorting local revenues and for feathering the nest of the legal community.[15] In terms of traffic laws, the U.S. Supreme Court took notice of the high percentage of city revenue derived from traffic offenses in *Ward v Village of Monroeville* and noted that when fines constitute a substantial portion of a such revenues, the "possible temptation" to convict the innocent could "...exist when the [adjudicator's] executive responsibility for village finances may make him partisan to maintain the high level of contributions from the mayor's office." Cases also arose as to partial judges, as in *Tumey v Ohio*.

---

[15] This is not the focus of my appeal but, whatever their exact salary, judges are certainly not the "peers" of typical citizens and we could explore the whole concept of what the obligation an officer of the court carries and *by what authority* any public servant can be paid more (not including per diem and other perquisites) than the median pay of those whom they are supposed to serve.

Recently, in nearby Luzerne County (Wilkes-Barre area), prosecutors found that two judges took "cash for kids" payoffs of more than $2.6 million to send teenagers to privately run youth detention centers. A third local judge was also pulled into the corruption inquiry, being the twentieth person overall. This ongoing matter suggests a possible culture of corruption in Pennsylvania. Without speculating about how some judges rise to higher positions, if a ticket-issuing-jurisdiction budget presumes and plans to receive traffic-offense revenue, it may promote the violation of due process. Similarly, the court system could along because it indirectly increases the number of judicial positions; i.e., more cases more court bureaucracy. Whatever the motive, my emphasis is that protecting the impartiality of judges and magistrates requires dirm and impartial oversight. Even if they do not unethically aid and abet doubtful corporations, the practice of law from the bench usually aids the prosecution's case. This precedent of a judge "helping the Government to try its case;" was noted in both the *United States v Singer*, and similarly in *People v Marcroft*.

The idea that corporations, here devised as local government units, have some sort special protection can be traced to a what was arguably a clerical error in *Santa Clara County vs. Southern Pacific Railroad Company*. The idea that public officials can hide their crimes behind the veil or corporate personhood deserves careful consideration in terms of the true *Due Process* intent of the 14th Amendment. This seems obvious if there is collusion with commercial corporations, as in the Luzerne County example. I seek to secure enforcement of the supreme law of the land as discussed in cases such as *Newman v Piggie Park Enterprises, Oatis v Crown Zellerbach Corp,* and *Jenkins v United Gas Corp.* My view is that criminal prosecutions in the United States should be governed by the explicit guarantees of procedural rights under the *Bill of Rights*, incorporated under the 14th Amendment to the states, construed to generally protect the individual so that statutes, regulations, and enforcement actions must ensure that no one is deprived of "life, liberty, or property" without a fair opportunity to affect the judgment or result.

It is perhaps my flawed understanding that this protection extends to *all* government proceedings that can result in any individual's civil or criminal deprivation, from administrative hearings regarding government entitlements to full-blown criminal trials. In *Snyder v. Massachusetts*, the Court held that *Due Process* is violated "if a practice or rule offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental." In criminal cases, many of these *Due Process* protections overlap with procedural protections provided by the 8th Amendment, which further guarantees reliable procedures that should routinely extend to *habeas corpus*. For example, if state officials *in any way* mistreat innocent people, per *Herrera v. Collins*, that could be tantamount to cruel and unusual punishment.

Despite the Civil War, probably because of an aberration that began with *Gitlow v New York*, such Due Process protection confronted state sovereignty issues[16] The more

[16] Even though the 14th Amendment restriction was incidental to the decision

recent case of *Penn v Nelson* again established federal preemption over state regulation on similar issues around the **supremacy clause**, which included sedition and national security. I hope that the Supreme Court now holds that every provision of the *Bill of Rights* also applies to the states and what I suggest might reduce the risk of sedition.

Per Article 4, Section 4 of the Constitution I would ask that the Supreme Court review the Commonwealth's flirtation with British law and forms of unwritten ("living") constitutions. Under republican forms of government elected or appointed public servants must pursue the goals of the public. *Res publica* has a Latin derivation meaning the public object (*res*). I fear that in Pennsylvania the goal has too long been the private and corporate object.

My fear is that violation of judicial duties is an insidious assault on American freedom by trusted individuals within the system. A federal judicial review could define the direction of much needed and long overdue reforms.

*****

CONCLUSION

Although this appeal places emphasis on FREEDOM OF MOVEMENT, the focus is *DUE PROCESS* and balancing judicial implementation against the infringement of fundamental individual rights. If Pennsylvania has violated *Due Process*, it us my hope that the Supreme Court will consider some form of STRICT SCRUTINY, wherein acceptable laws, statutes, and the implementing agencies are narrowly or equally tailored towards a compelling public interest. I fear that there is now no assurance that Pennsylvania judges will watch over the Life, Liberty, and Pursuit of Happiness of fellow citizens unless there is forceful federal intervention to undo past harmful changes, like those since 1968.

Therefore this petition for certiorari should be granted.

Respectfully submitted,

VICTOR MADEJA, *pro se*

Date: July 22, 2010

INDEX TO APPENDICES 1

A. April 26, 2010 Order of the Supreme Court of Pennsylvania to Deny Appeal

B. November 18, 2009 Decision In The Superior Court Of Pennsylvania that Denied Allowance of Appeal.

C. April 17, 2009, Opinion In The Court of Common Pleas of Lehigh County, Pennsylvania, Criminal Division to Defend Guilty Verdict

D. Separate and Unequal Local Governments in Pennsylvania 1967 & 2007

APPENDIX A

IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

COMMONWEALTH OF PENNSYLVANIA, Respondent — No. 1019 MAL 2009

v.

VICTOR MADEJA
Petitioner

ORDER

PER CURIAM

AND NOW, this 26th day of April, 2010, the Petition for Allowance of Appeal is hereby DENIED.

Madame Justice Orie Melvin did not participate in the consideration or decision of this matter.

TRUE & CORRECT COPY

ATTEST: APRIL 26, 2010

S//_____

Elizabeth Zisk, Chief Clerk

APPENDIX B

J. S67034/09

NON-PRECEDENTIAL DECISION -
- SEE SUPERIOR COURT I.O.P. 65.37

In The Superior Court Of Pennsylvania No. 579 EDA 2009

COMMONWEALTH OF PENNSYLVANIA,
Appellee

v.

VICTOR MADEJA
.....Appellant

Appeal from the Judgment of Sentence Entered January 23, 2009,
Court of Common Pleas, Lehigh County,
Criminal Division, at No. CP-39-SA-0000206-2008.

BEFORE: ORIE MELVIN, SHOGAN, and COLVILLE*, JJ.

MEMORANDUM: FILED NOVEMBER 18, 2009

Appellant, Victor Madeja, appeals from the judgment of sentence entered on January 23, 2009, in the Lehigh County Court of Common Pleas following a trial *de novo*. We affirm.

On June 11, 2008, Appellant filed an appeal from a conviction for the summary offense of exceeding the maximum posted speed limit, in violation of 75 Pa.C.S.A. § 3362(a)(3). A trial *de novo* was held before the trial court on January 23, 2009. At the conclusion of the trial, the trial

court found Appellant guilty of traveling 65 miles per hour in a 45 mile per hour zone. The trial court sentenced Appellant to pay the costs of prosecution and fines totaling $75.00.

On February 2, 2009 and February 3, 2009, Appellant filed two separate motions, each entitled "Motion to Dismiss/Reconsider." In an order filed on February 5, 2009, the trial court denied Appellant's motions and informed him of his appellate rights. Appellant timely appealed, and on March 9, 2009, the trial court directed Appellant to file a concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b). On April 1, 2009, Appellant filed an untimely response to the trial court's order for a concise statement of errors complained of on appeal entitled "Statement." The trial court accepted the untimely filing and drafted an opinion. After separating out Appellant's irrelevant legal maxims and superfluous language in the statement, the trial court concluded that Appellant had actually raised only one issue. Specifically, the trial court noted "[Appellant] claims that he was denied due process and then cites to several legal principals [sic] that are not relevant to his instant appeal." Trial

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* *Retired Senior Judge assigned to the Superior Court.

Court Opinion, 4/17/09, at 2. The trial court then went on and explained that Appellant's due process claim was meritless because he was not entitled to a jury trial. *Id.* at 3.

As a prefatory matter, we note that the statement does not conform to Pa.R.A.P. 1925(b), in that it does not concisely identify **any** issue. Rather, the statement provides Appellant's definition of due process. As Appellant failed to identify any errors allegedly committed by the trial court, we could conclude that he has failed to present any issues on appeal. Pa. R.A. P. 1925(b).

However, inasmuch as Appellant generally alleges a violation of his right to due process, the trial court did conduct an analysis with respect to Appellant's right, or lack thereof, to a jury trial. Because the trial court concluded it was able to discern this issue, and because it did conduct an analysis, we will address this issue. See **Commonwealth v. Burton**, 973 A.2d 428, 433 (Pa. Super. 2009) (stating that if the appellant has filed the Pa.R.A.P. 1925(b) in an untimely fashion, this Court may decide the appeal on the merits if the trial court had adequate opportunity to prepare an opinion addressing the issues being raised on appeal).

Appellant argues: "Pennsylvania Case Law has distinguished cases with under six months imprisonment as being 'petty' and not protected by a right to a jury trial[,] and Judge Anthony cited one of them as *Commonwealth v. Mayberry*. The assertion that such decisions by Pennsylvania courts can overthrow the U.S. Constitution is doubted." Appellant's Brief at 5. Upon review, we conclude that Appellant's argument is frivolous.

Initially, we point out that **Commonwealth v. Mayberry**, 459 Pa. 91, 327 A.2d 86 (1974) discusses the difference between a "serious" offense and a "petty" offense. However, the Pennsylvania courts did not, as Appellant suggests, simply go off on a frolic and detour of their own in determining that an individual may be tried without a jury when he or she faces a sentence of less than six months. Rather, that federal constitutional question was decided by the United States Supreme Court. *Codispoti v. Pennsylvania*, 418 U.S. 506 (1974). It is well settled that we are bound to follow the decisions of the United States Supreme Court interpreting the United States Constitution. See *Commonwealth v. Hulehan*, 487 A.2d 980, 982 (Pa. Super. 1985) (stating that the United States Supreme Court is the ultimate

arbiter of the federal constitution) (citing *Marbury v. Madison*, 5 U.S. 137 (1803)). Therefore, we conclude that because Appellant was charged with a summary offense, which carried a maximum penalty of fines only and never placed Appellant in jeopardy of incarceration of more than six months, there was no violation of Appellant's due process rights when he received a trial de novo without a jury.

For the reasons set forth above, we conclude that Appellant is entitled to no relief. Accordingly, we affirm the judgment of sentence. Judgment of sentence affirmed.

Judgement Entered

S//_____

Karen Bramblett, Prothonotary

Date: Nov 18 2009

APPENDIX C

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA.. CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA No. Sa-206-2008

vs.

VICTOR MADEJA

Defendant

Pa.R.A.P. 1925(a) OPINION

James T. Anthony, Judge:

On February 29, 2008, the defendant was issued a citation for traveling at a speed of 65 mph in a 45 mph zone.[1] On June 11, 2008, the defendant filed a "Notice of Appeal from Summary Criminal Conviction." A summary appeal trial was held on January 23, 2009. I found the defendant guilty of traveling at a speed of 65 miles per hour in a 45 mile per hour zone, and sentenced him to pay the costs of prosecution, a fine in the amount of sixty-five dollars ($65.00), and an EMS fine of ten dollars ($10.00).

On February 2, 2009, the defendant filed a pro se "Motion to Dismiss/Reconsider" wherein he requested that the charges against him be dismissed, or in the alternative, that he be granted a trial by jury. On February 3, 2009, the

defendant filed *a pro* se "Motion to Dismiss/Reconsider (Updated 3 February 2009)" in which he requests the same relief as sought in the original motion.[2]

By order dated February 5, 2009, and pursuant to Pa.R.Crim.P. 720(D), I denied the defendant's motions and advised him of his appeal rights.[3] On Monday, February 23, 2009, the defendant filed a notice of appeal from my February 5, 2009 order. The defendant did not include a request for transcripts with his notice of appeal, but instead attached a statement "in place of a transcript of the proceedings."[4]

On March 9, 2009, I issued an order, pursuant to Pa.R.A.P. 1925(b), directing the defendant to file a concise statement of errors complained of on appeal within twenty-one (21) days after entry of the order. The order also informed the defendant that any issues not properly included in the statement would be deemed waived.

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[1] 75 Pa.C.S.A. § 3362(a)(3)

[2] The defendant attached a note stating that the updated version was a "clearer format of the same issues; mainly by using a larger font, numbering the paragraphs, and rewording the footnote on the exhibit for clarity."

[3] My February 5, 2009 order is incorporated herein

[4] The statement is incorporated herein.

On March 24, 2009, I issued an order directing the court reporter to produce, certify and file the transcript, provided the defendant paid the cost of transcription.[5]

On March 30, 2009, the defendant filed a one-page "Statement" in response to my March 24, 2009 order for transcripts. In the statement, the defendant implied his intent to ignore the order, and his intent to "bill the Court for time at $250.00 per hour + expenses in defending himself from unconstitutional judgments or laws and to seek $10,000 per violation of other constitutional rights."

On April 1, 2009, the defendant filed a second "Statement" in response to my March 9, 2009 order directing him to file a concise statement of matters complained of on appeal. In this statement, the defendant claims that he was denied due process and then cites to several legal principals that are not relevant to his instant appeal. This statement was filed more than twenty-one (21) days after entry of my March 9, 2009 order.

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[5] My March 24, 2009 order is incorporated herein.

Discussion and Conclusions of Law

The defendant's claim that he was denied his right to a jury trial is without merit. It is well settled that only individuals accused of serious offenses have the right to a jury trial. *Commonwealth v. Mayberry*, 327 A.2d 86 (Pa. 1974). "[T]hose crimes carrying more than six months sentence are serious and those carrying less are petty crimes." *Id.* at 89. The defendant was charged with a summary offense, for which he was subject to a fine and no imprisonment. The defendant was, therefore, not entitled to a jury trial.

For this reason, I respectfully submit that the defendant's appeal should be dismissed and his sentence affirmed.

April 17, 2009

Ss// _____

James T. Anthony, Judge

APPENDIX D

Separate and Unequal Local Governments in Pennsylvania 1967 & 2007[1]

This shows Governments actually in existence in January 2007 and therefore excludes a few counties and numerous townships and "incorporated places" that existed as areas for which statistics could be presented as to population and other subjects, but lacking any separate organized county, township, or municipal government. Most of the government units listed had property taxing authority.

Type of government	*1967*	*2007*
U.S. government	1	1
State government	50	50
Local governments in US	81,248	89,476
Local governments in US	4,988	4,871
PA Counties	66	66
PA Municipalities	1005	1061
PA Townships	1554	1546
PA Special Districts	1624	1728
PA School districts	749[2]	515

[1] From *Statistical Abstract of the United States*, which is based on U.S. Census Bureau, Census of Governments, Volume 1, Number 1, Government Organization, Series GC07(1)-1. 2007 information from table T417 of 2010 being the most recent. The 1967 data is from Table 648 from 1972 edition.

[2] Also listed 809 school "systems" as distinct from these districts.

The adoption of a new local government article to the Pennsylvania Constitution in 1968 allowed Pennsylvania counties and municipalities to adopt "home rule" charters and exercise home rule powers but it was an untested legal area.[3] Although the concept is simple and has enabled modest local initiatives, it remains untested as a democratic decision-making tool because a minority can impose its will on a non-voting majority, sometimes contrary to state and federal constitutional protections. The idea of shifting the responsibility for local governance from the State Legislature to the local community also remains problematic in terms of "Dillon's Rule." While local officers might go on record as taking an oath to the U.S. Constitution that implication can become lost due to needs of daily decision making and the wide variety of such governments increases the risk of corruption.[4] There is also a question as to who pays for so many added layers of government and why are so 4,871 government units need in Pennsylvania as compared to states like Virginia, which has only 519?

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[3] The key issue is that such added government units, although they may have authority to tax property, can also supplement their revenue by direct or indirect forms of judicial imposition. Much more information was prepared on this topic but removed for reasons of space.

[4] For example, the treasurer of my local township (Lower Macungie) embezzled 2.5 million dollars from a local Authority over several years.